

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ARMEN DJERRAHIAN,

Index: 18-cv-7340

Plaintiff,

COMPLAINT

-against-

COMPLEX MEDIA, INC.,

ECF CASE

Defendant.
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Plaintiff, ARMEN DJERRAHIAN, by his attorneys, EDWARD C. GREENBERG, LLC
alleges as follows:

PARTIES

1. Plaintiff ARMEN DJERRAHIAN (hereinafter “Plaintiff” or “DJERRAHIAN”) is an individual citizen of France, who is actively engaged in the photography business in the State of New York and elsewhere, and who resides in Brooklyn, New York 11222.

2. Defendant COMPLEX MEDIA, INC. (hereinafter “Defendant” or “COMPLEX”), is a foreign corporation, duly organized and existing under the laws of the State of Delaware, authorized to do business in the State and County of New York, and upon information and belief, regularly does business in the State and County of New York at the address of 1271 Avenue of the Americas, 35th Floor, New York, NY 10020.

JURISDICTION AND VENUE

3. This is a civil action for copyright infringement.
4. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1338.
5. Venue in the Southern District of New York is proper pursuant to 28 U.S.C. § 1400 as COMPLEX resides and may be found in the State and County of New York, and regularly does business in the State and County of New York.

FACTS COMMON TO ALL CLAIMS

6. That Plaintiff DJERRAHIAN is a successful professional photographer with many years of experience and a considerable reputation.

7. DJERRAHIAN is well known in the hip hop music business, as he has worked with major artists including but not limited to Jay-Z, Usher, 50 Cent, Eminem, Kanye West, Rick Ross, and director Spike Lee.

8. DJERRAHIAN's work has been featured on the covers of several issues of Vibe Magazine, Ink Magazine, XXL Magazine, and numerous international publications.

9. DJERRAHIAN has also shot and directed music videos, including a music video featuring R&B recording artist Melanie Fiona, which received a nomination for [Best] "Video of the Year" at the 2010 BET Awards.

10. DJERRAHIAN has shot commercials including without limitation for brands such as Giorgio Armani featuring Hollywood actor and celebrity Chris Pine, Van Cleef & Arpels, and Piaget.

11. DJERRAHIAN is also a successful fashion photographer who has shot photos for Shinola, Cazal Eyewear, Nike, Fila, Reebok, Marc Ecko.

THE IMAGE

12. In 2003, DJERRAHIAN shot images of the performer, rapper and mogul, Shawn Corey Carter, better known as "Jay-Z" (hereinafter "Jay-Z") for Rap US Magazine, which were first published on February 1, 2003.

13. One of such Image of Jay-Z depicts Jay-Z with the palms of his hands toward the camera, index fingers together and thumbs together, revealing the shape of a diamond between

his hands in which the image uniquely frames his face (hereinafter the “Image” “Jay-Z Image” or “Subject Image”, a copy of which is annexed hereto as **Exhibit “A”**).

14. DJERRAHIAN is well known as the creator of the Jay-Z Image.

15. DJERRAHIAN was credited as the creator of the Jay-Z Image when it was originally published in Rap US Magazine.

16. Rap US Magazine is a French hip hop magazine that has featured artists such as Jay-Z, Snoop Dogg, Ice Cube, G Unit, P.Diddy, Pharrell Williams, Kanye West, and Lil Wayne. Rap US Magazine

17. DJERRAHIAN duly registered the Jay-Z Image with the United States Copyright Office on March 6, 2015, Registration No. VA 1-946-273 (a copy of the relevant page of said registration is annexed hereto as **Exhibit “B”**).

18. DJERRAHIAN is well-known for the Subject Image of Jay-Z.

19. A copy of an article that discusses the Subject Image and DJERRAHIAN’s famed photoshoot of Jay-Z is annexed hereto as **Exhibit “C”**.

20. The Subject Image of Jay-Z is iconic and highly recognizable.

21. Jay-Z is known as a rapper, songwriter, record producer, and entrepreneur.

22. Upon information and belief, Jay-Z is one of the best-selling music artists of all time.

23. Upon information and belief, Jay-Z is one of the most critically acclaimed hip hop artists in the world.

24. Upon information and belief, Jay-Z holds the record for the most number-one albums by a solo artist on the Billboard 200.

25. Upon information and belief, Jay-Z has recorded four number-one singles on the Billboard Hot 100.

26. Jay-Z has been lauded by Billboard as the biggest artist of the 2000s.

27. Upon information and belief, DJERRAHIAN photographed Jay-Z at the height of Jay-Z's career.

28. Upon information and belief, Jay-Z has been named by Rolling Stone as one of the 1000 greatest artists of all-time.

29. Upon information and belief, Jay-Z has received 21 Grammy awards, tied with Kanye West for the most by a rapper.

30. The Jay-Z image and the hand symbol made in same is referred to and also known as "The Roc".

31. The hand symbol depicted in the Subject Image has become immensely popular and synonymous with Jay-Z.

32. Upon information and belief, Jay-Z recently filed an application to Trademark "The Roc" hand symbol.

33. DJERRAHIAN's Image of Jay-Z is unique and distinct from other images of Jay-Z making the same hand symbol.

ABOUT COMPLEX

34. Upon information and belief, COMPLEX, operates and manages the content on the website www.complex.com, a website publishing news and content about aspects of hip hop culture including information pertaining to the lives of celebrities, music, entertainment, style and news.

35. Complex.com highlights Music, style, pop culture, sports, life, sneakers shows, with a focus on hip hop, streetwear, sneaker culture and graphic art.

36. COMPLEX disseminates entertainment, news and information by way of magazine, website, and other media.

37. Upon information and belief, complex.com is the online incarnation of the influential Complex Magazine.

38. Upon information and belief, COMPLEX is a subsidiary of Verizon Hearst Media Partners, LLC.

39. Complex.com is the primary brand and flagship website of Complex Networks, which has several brands including Sole Collector, Rated Red, First We Feast, Pigeons & Planes.

40. Complex Networks further has several television shows including without limitation “The Burger Show”, “Complex News”, “Open Late”, “Hot Ones”, “Sneaker Shopping”, “Unboxing”, “Food Skills”, “Full Size Run” and “Out of Bounds”.

41. Complex Networks’ televisions shows can be found on mediums such as fuse, MSG, YouTube, Apple TV, Roku TV, Amazon Fire TV and Android TV.

42. Upon information and belief, COMPLEX is lauded as having unparalleled social influence among and reach to Millennials and Generation Z.

43. Upon information and belief, COMPLEX is the leading multi-media platform for influential young male consumers.

44. Upon information and belief, Complex generates and receives revenue through its website, including through ads, royalties, “click-through” royalties, purchase royalties, as well as advertising and marketing partnerships.

45. COMPLEX participates in various affiliate marketing programs.

46. Upon information and belief, COMPLEX gets paid commissions on purchases made through their links to retailer sites.

47. Upon information and belief complex.com is designed so that viewers view one article after another by clicking on links present on a given page.

48. Upon information and belief, viewers of the complex.com website go from one article to the next by virtue of links present on a given page.

49. Upon information and belief, Complex.com receives 60 million monthly unique desktop views from desktop computers.

50. Upon information and belief, Complex.com receives 112,000 monthly unique views from mobile devices.

THE SUBJECT UNAUTHORIZED USE OF THE JAY-Z IMAGE

51. COMPLEX has employed the Subject Image in varied forms on its website www.complex.com without a license authorization or consent.

52. COMPLEX has employed DJERRAHIAN's Jay-Z Image at least on its website within a post entitled "The 50 Best Video Game References In Hip-Hop" under number "11" captioned "Jay-Z, 'People Talkin' ' (2001)" at <https://www.complex.com/pop-culture/2011/04/50-best-vg-references-in-rap/beanie-sigel-mac-man> (a copy of the subject unauthorized use of the Subject Image is annexed hereto within **Exhibit "D"**).

53. COMPLEX has also employed DJERRAHIAN's Jay-Z Image at least on its website within a post entitled "How Music Managers Became as Important as Artists presented by KIA", wherein Jay-Z's hands from the Subject Image have been placed in motion within an animated "gif" at <https://www.complex.com/music/2014/12/how-music-manager-became-as-important-as-artists> (a copy of the subject unauthorized use of the Subject Image is annexed hereto within **Exhibit "D"**).

54. Upon information and belief, COMPLEX' uses of the Subject Image were accompanied by ads for companies such as, without limitation, Kia, Infinity, Optimum, Cricket Wireless, the Spike Lee film "Black k Klansman, Y-3 shoes, LG, myblu, AXE Styling, and others.

55. DJERRAHIAN **has never** granted COMPLEX any license for the use of the Subject Image, nor provided authorization or consent to COMPLEX to use the Jay-Z Image in any media whatsoever.

56. The Subject Image of Jay-Z was/is valuable to COMPLEX.

FACTS COMMON TO ALL CLAIMS

57. Pursuant to Federal Rule 11, Plaintiff has sought to obviate judicial intervention and the filing of suit.

58. On July 25, 2018, DJERRAHIAN, by his counsel, sent a written notice letter to COMPLEX MEDIA, LLC by electronic mail to its general counsel, advising COMPLEX to remove our client's image from its website www.complex.com, that its uses of the Subject Image were in violation of DJERRAHIAN's copyright, and that it has no right to use Subject Image in any way, shape or form (hereinafter the "Notice Letter", a copy of which is annexed hereto as **Exhibit "E"**, sans its exhibits which are elsewhere annexed to this Complaint).

59. Although counsel for the parties engaged in correspondence regarding the alleged infringements, the parties were unable to resolve the matter.

60. Plaintiff is committed to protecting his copyright in the Subject Image.

61. Plaintiff has filed other actions sounding in copyright infringement in this District, including without limitation one against the performer known as Rick Ross, Def Jam Recordings, and record label Maybach Music Group involving the alleged infringement of the Jay-Z Image (case number 15-cv-3788 (JPO)(DCF)).

62. Upon information and belief, COMPLEX is a sophisticated licensor and licensee of intellectual property and employ attorneys, systems and protocols, to secure usage of intellectual property created by third parties.

63. Defendant has employed Plaintiff's Subject Image on its website, without Plaintiff's license, authorization, or consent, notwithstanding its actual knowledge that it possessed no such license or authorization.

64. Plaintiff has sought to obviate judicial intervention and the filing of suit. Such efforts have gone without success.

65. The Defendant has no defense at law to the claims set forth herein.

66. Defendant is, upon information and belief, a serial copyright infringer.

67. Upon information and belief, COMPLEX has faced numerous claims of copyright infringement alleged against it.

68. That the full nature and extent of all infringing uses by Defendant of the Subject Image are unknown to Plaintiff at the time of this Complaint, said information being within the sole knowledge, custody, and control of Defendant, but that Plaintiff reasonably expects to ascertain such information through routine discovery in this action.

69. Paragraphs "1" through "68" are incorporated by reference with respect to each of the below claims for relief.

FIRST CLAIM FOR RELIEF
Copyright Infringement – Jay-Z Image
Under Section 501 of the Copyright Act

70. That the use of the Plaintiff's Jay-Z Image by the Defendant in connection with the website "www.complex.com" was and is without the plaintiff's authorization, license or consent.

71. The Defendant has infringed the copyright in Plaintiff's Jay-Z Image.

72. The acts of the Defendant constitute federal statutory copyright infringement under Section 501 of the Copyright Act in violation of the rights granted to DJERRAHIAN as copyright holder.

73. That, upon information and belief, defendant(s)' use of the Jay-Z Image was willful, intentional and in bad faith.

74. That, upon information and belief, defendant(s)' use of the Jay-Z Image in violation of Plaintiff's copyright was negligent in that it knew or should have known that it was without a license for the use(s) complained of herein.

75. That, upon information and belief, Defendant had actual and/or constructive knowledge and/or through the exercise of ordinary business care and/or the examination of public records, knew or should have known that Plaintiff held the copyright in the Jay-Z Image, that neither of defendants never had a license, consent, or authorization by Plaintiff for the use of Plaintiff's Jay-Z Image on its website or in any other medium of news source employed by Defendant and that any such use would be in violation of Plaintiff's copyright.

76. Upon information and belief, COMPLEX has actual knowledge of DJERRAHIAN and his work.

77. That as a result of Defendant(s)' acts, Plaintiff has been and will continue to be damaged in an amount as yet to be determined.

78. The Copyright Act enables a prevailing plaintiff to elect to recover compensatory damages in the form of his actual damages and any additional profits of the Defendant which are attributable to the infringement as under 17 U.S.C. Sections 504 (a)-(b).

79. That Plaintiff has been harmed in an amount to be determined by this Honorable Court.

JURY DEMAND

80. That Plaintiff requests a trial by jury of all issues.

WHEREFORE, plaintiff demands judgment as against the defendants as follows:

ON THE FIRST CLAIM- (A) Award to plaintiff his actual damages incurred as a result of defendants infringements, and all profits realized as a result of their infringements, in amounts to be determined at trial pursuant to 17 U.S.C. § 504 for each individual act of infringement; and for an order of injunction permanently enjoining and prohibiting the defendant, including but not limited to wholly owned subsidiaries, from employing or utilizing in any manner or media whatsoever, including all future uses, sales, transfers, assignments, or licensing of plaintiff's copyrighted Image, pursuant to 17 U.S.C. § 502;

Prejudgment interest on all sums due;

And such other and further relief as this Court may deem just and proper inclusive of any and all relief or remedies allowable by the statutes referenced above or applicable hereinabove.

Dated: New York, NY
August 14, 2018

Yours, etc.,

EDWARD C. GREENBERG, LLC.

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